

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. It turned out that the petitioner's wife missed a week of work in September due to illness. She also missed two weeks of work for this reason in October. On November 25,

2002 the petitioner again applied for Food Stamps based on this new information.

3. Based on the petitioner's records of his wife's earnings in September and October the Department found the household eligible for \$20 in Food Stamps for October and \$195 for November. However, based on his wife's anticipated earnings (which, to date at least, have proven to have been accurate) the household was determined to be ineligible as of December 1, 2002.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp regulations provide that a household's eligibility for the month of application shall be determined by considering the household's circumstances for that month. Food Stamp Manual (FSM) § 273.10(a). The Department calculates eligibility for the first calendar month of eligibility by using the income the household reports having received in the thirty days immediately prior to the date of application.

For subsequent months, the regulations direct that the Department "anticipate" income for the rest of the six-month period of certification. This is also based on the income

reported by the household in the last thirty days. F.S.M. § 273.10(c)(ii). However, in most circumstances (i.e., where it is not anticipated that income will substantially fluctuate) the Department determines anticipated income by averaging a household's weekly income over the past 30 days and multiplying it by 4.3 to arrive at an anticipated monthly income figure.

When the petitioner first applied for Food Stamps on October 1, 2002, the Department determined his household's eligibility for October by looking at what the petitioner reported his wife had been paid in September. Those earnings did not reflect the fact that she had missed her last week of work in September due to illness. The Department determined the petitioner's eligibility for subsequent months by averaging his wife's weekly pay checks in September and multiplying them by 4.3. These calculations resulted in the household being ineligible for October 2002 and all subsequent months in the certification period.

Based on the above regulations, it appears the Department correctly determined the household's eligibility based on the information it had at that time. What the Department and the petitioner did not know then was that the week of work the petitioner's wife missed in September and the two weeks she

would miss in October would have altered the household's initial eligibility if its application had been filed immediately after the absences had occurred.

Fortunately, the petitioner reapplied for Food Stamps in November 2002. At this time, the Department not only determined the household's eligibility for November based October earnings (which included the two weeks of missed work that month), it also recalculated the household's eligibility for October based on its September's earnings (which included the week of missed week of work at the end of September). This resulted in a decision finding the household eligible for \$20 in Food Stamps for October and \$195 for November. However, based on anticipated earnings (which the petitioner does not dispute), the Department found the household ineligible for Food Stamps as of December 1, 2002.

The petitioner is understandably confused by the Department's calculations, especially the switch from using actual to anticipated income that occurs after the first month of eligibility. However, it appears that by recalculating the petitioner's eligibility for both October and November 2002 using the previous month's actual earnings the Department maximized the petitioner's eligibility for those two months. At the hearing, held on December 19, 2002, the Department

explained that it could recalculate any subsequent month of eligibility if the petitioner reports a drop in household income in the future. Inasmuch as the Department's decision in this matter appears to be in accord with the regulations it must be affirmed. 3 V.S.A. 3091(d), Fair Hearing Rule No. 17.

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